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In re Application of	:	
Mederski et al.	:	
Application No. 10/089,166	:	DECISION ON
PCT No.: PCT/EP00/08940	:	
Int. Filing Date: 13 September 2000	:	PAPERS UNDER
Priority Date: 28 September 1999	:	
Atty. Docket No.: MERCK 2033A	:	37 CFR 1.42
For: Quinazolinones	:	

This is in response to the papers filed on 26 August 2002, which are being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 13 September 2000, and claimed a priority date of 28 September 1999. The International Bureau transmitted a copy of the published international application to the USPTO on 05 April 2001. A Demand electing the United States was filed before the expiration of 19 months from the priority date. Accordingly, the 30 month time period to file the basic national fee in the U.S. expired as of midnight on 28 March 2002.

On 27 March 2002, applicants filed *inter alia* the required basic national fee, but did not file an executed oath or declaration of the inventors.

On 25 June 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b).

The instant papers were filed on 26 August 2002.

DISCUSSION

Inspection of the declaration reveals that it indicates that joint inventor Ralf Devant is "DECEASED." 37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Review of the copy of the declaration filed on 03 June 2002 reveals that it identifies a joint inventor (Cezanne) whose name does not appear in the published international application; as such, the declaration fails to comply with 37 CFR 1.497(a). Also, the declaration does not clearly indicate whether anyone is signing on behalf of Ralf Devant and, even if anyone is signing on his behalf, it does not state the relationship/legal representative status of that person(s) to Ralf Devant. Also, it is unclear whether the other joint inventors signed complete copies of the declaration, since the declaration filed on 26 August 2002 appears to have been assembled from parts of multiple declarations, which were possibly incomplete. Accordingly, it would not be appropriate to accord the application status pursuant to 37 CFR 1.42 on the basis of the present record.

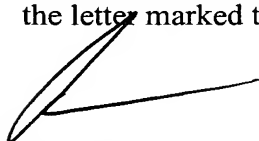
Applicants are further advised that the claim for priority under 35 U.S.C. 119 appears to be improper in that it refers to a United States application number rather than a foreign application number, and in that the referenced U.S. application number, "99-407,958," does not refer to an application filed on 28 September 1999 as claimed.

DECISION

The papers under 37 CFR 1.42 are **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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